

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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AMERICAN WATERWAYS  
OPERATORS,

Plaintiff,

v.

UNITED STATES COAST GUARD,

Defendant.  
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) Civil Action No. 18-12070-DJC  
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**AFFIDAVIT OF MARK RASMUSSEN**

1. I, Mark Rasmussen, was Executive Director of the Buzzards Bay Coalition, Inc. (“Coalition”), formerly known as the Coalition for Buzzards Bay, from 1998 to 2008 and have been President of the Coalition since 2008. I make this affidavit based upon personal knowledge in support of the Motion of the Coalition to Intervene.

2. I am a graduate of Harvard University’s Kennedy School of Government with a Master’s in Public Administration. I received my Bachelor’s degree in Political Science and Environmental Studies at Boston College. Prior to joining the Coalition, I worked as a Guest Student at the Woods Hole Oceanographic Institute and as a Regional Planner for the Massachusetts Office of Coastal Zone Management’s Buzzards Bay National Estuary Program. My graduate studies at Harvard University focused on organizational management and water governance policy and, in particular, coastal ecosystem management systems. In 2013, I joined the Stockholm International Water Institute to explore government and civil society approaches to the restoration of the Baltic Sea. I presently hold an Associate position at the Stockholm Environment Institute.

3. As President of the Coalition, a nationally-recognized model in collaborative water resource protection, I manage an 18-member Board of Directors, a staff of 26 professionals, and an annual budget of \$3.2 million in fiscal year 2019.

4. The Coalition, which was founded in 1987, is a Massachusetts nonprofit corporation dedicated to the restoration, protection, sustainable use, and enjoyment of Buzzards Bay and its watershed. The Coalition works to improve the health of the Buzzards Bay ecosystem for all. The Coalition's work is focused in four main areas: water quality and natural resource monitoring, advocacy, land conservation and community engagement.

5. Buzzards Bay was designated by the United States Congress in 1985 as an "Estuary of National Significance," and was further designated by the United States Environmental Protection Agency as a "No Discharge Area" in 2000. Buzzards Bay is also a state-designated Ocean Sanctuary, and is home to a variety of threatened and endangered species, including approximately half of the remaining global population of the endangered roseate tern.

6. Buzzards Bay is 28 miles long with an average width of only 8 miles and a mean depth of only 36 feet. Both ends of the Bay are marked with dangerous ledges, reefs, and currents posing many risks to navigation. Consequently, the Bay has a long history of significant oil spills which have inflicted serious ecological damage on the Bay and its diverse natural resources.

7. The Coalition has more than 9,900 individual, family, business and organizational members and volunteers, the vast majority of whom are active users of Buzzards Bay and its shoreline for a broad variety of recreational and commercial purposes – including swimming, sunbathing, bird-watching, boating, kayaking, windsurfing, fishing, shellfishing, aquaculture,

tourism and education. The Coalition and its members have a significant interest in sustaining these uses and protecting Buzzards Bay's myriad natural resources.

8. When Bouchard Transportation Company's Barge-120 grounded in Buzzards Bay on April 27, 2003, the Coalition and its members suffered the acute negative impacts of the resulting oil spill. The Bouchard-120 released a reported 98,000 gallons of heavy fuel oil that contaminated some 93 miles of shoreline, closed thousands of acres of shellfish beds, killed hundreds of protected birds, and closed public and private beaches and triggered a massive cleanup effort that continued for 4 years.

9. Many of the Coalition's members own waterfront property that was contaminated by the Bouchard-120 oil spill. In the aftermath of the oil spill, their beaches, seawalls, docks and jetties were covered to varying extents with the thick heavy No. 6 fuel oil, in many cases leaving these areas unusable for lengthy periods of time.

10. Additionally, a number of the Coalition's members derive at least part of their income from the Bay and its natural resources, including through harvesting the Bay's shellfish and lobsters, tourism, various aspects of providing recreational boating services, etc. Thus, any potential oil spill like the Bouchard-120 oil spill- which forced the temporary closure of beaches, restricted fishing activities and left thousands of acres of shellfish beds closed for many months- has a significant impact on these members' abilities to derive their usual incomes from the Bay's resources.

11. In 2001 and again in 2015 the Coalition was officially designated by the Commonwealth of Massachusetts as the Volunteer Coordinator in the event of any significant oil spill in Buzzards Bay. Therefore, in the wake of the Bouchard-120 Buzzards Bay oil spill that occurred on April 27, 2003, the Coalition coordinated the efforts of hundreds of volunteers who



became involved in wildlife rehabilitation and worked with countless others to educate the public about oil spill safety issues.

12. At the outset of the Bouchard-120 oil spill, the Coalition established a phone bank to receive calls from prospective volunteers and solicit information regarding these volunteers' particular skills. The Coalition also worked with various city, state and federal government officials as well as wildlife rehabilitation experts to set up a wildlife rehabilitation center at the New Bedford Wastewater Treatment Facility.

13. After the initial cleanup of the Bouchard – 120 in 2003, the Coalition researched and drafted oil spill prevention laws to ensure that a disaster of this nature would not be repeated in Buzzards Bay. The laws the Coalition drafted became the framework and body of the Massachusetts Oil Spill Prevention Act, (“MOSPA”), which was introduced in the state legislature on the one-year anniversary of the B-120 oil spill. The Coalition coordinated the support of its members and Bay-municipalities to advocate for passage of the MOSPA in 2004.

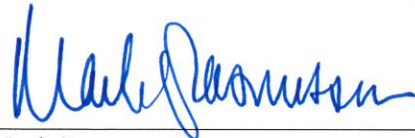
14. In 2005 when the United States filed suit against the Commonwealth of Massachusetts, the Coalition sought and was permitted to intervene, unopposed in an effort to defend the protections afforded to Buzzards Bay through MOSPA.

15. The Coalition participated as a full party, providing briefs and participating in oral argument over the course of that litigation and through the First Circuit Court of Appeals decision in 2011.

16. The Coalition participated in the 2003 and 2018 Ports and Waterways Safety Assessments for Buzzards Bay.

17. In view of the substantial protections that MOSPA provides to the Coalition and its members, the Coalition's board of directors has authorized counsel to seek intervention in the present action in order to defend the provision of MOSPA.

I declare under penalty of perjury that the foregoing is true and correct.



Mark Rasmussen

Date May 17, 2019